



Center for Medicaid and State Operations/Survey and Certification Group

Ref: S&C-04-48

DATE: September 29, 2004

TO: State Survey Agency Directors

FROM: Director
Survey and Certification Group

SUBJECT: Implementation of Critical Access Hospital (CAH) Distinct Part Units (DPUs) for
Psychiatric and Rehabilitation Services

Letter Summary

- A PPS Hospital with a PPS-excluded Psychiatric Unit or Rehabilitation Unit that meets criteria as an Inpatient Rehabilitation Facility (IRF), may convert to CAH provider status with the same DPU(s) at any date on or after October 1, 2004. Each such DPU may have up to 10 beds.
- A current CAH wishing to add a DPU(s) may add the DPU on the beginning of a CAH cost reporting period on or after October 1, 2004.
- New provider numbers for the CAH DPUs billing will be effective with CAH DPU approval effective date on or after October 1, 2004.
- CAH DPU must meet certain Conditions of Participation and Other Requirements, and compliance is subject to onsite verification.

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), enacted on December 8, 2003, contained a number of modifications to the CAH statutory requirements including a new provision allowing the addition of CAH distinct part units (DPUs) for psychiatric and rehabilitation services. (Section 1820(c)(2)(E) of the Social Security Act) The purpose of this memorandum is to summarize how CMS will implement the establishment of DPUs in CAHs.

Common Requirements for the Establishment of DPUs in CAHs

Compliance with the Conditions of Participation (CoPs): All DPUs that are established in any CAH are new units for the CAH provider type and must undergo a survey by CMS, or its designee, in order to demonstrate compliance with the CAH DPU Conditions of Participation at §485.647. (42 CFR §489.10(a))

- **In the case of a currently participating PPS hospital with a compliant PPS-excluded psychiatric unit and/or rehabilitation unit, converting to CAH status with the same distinct part unit(s):**
 - The application for change in provider status can occur at any time of the year on or after October 1, 2004.
 - The entire facility, including any DPUs, must be surveyed for compliance with all of the CAH CoPs. All hospitals converting to a CAH and all new DPUs are subject to an initial survey and a one-year follow-up survey for compliance.
 - The initial survey by the State agency can be scheduled and completed at any time during the application process.
 - A PPS Hospital with an attached PPS-exempt Psychiatric Unit and/or a Rehabilitation Unit that meets criteria as an Inpatient Rehabilitation Facility (IRF), may convert to CAH provider status with the same DPU(s) at any date on or after October 1, 2004.
 - A final cost report must be filed after changing provider type in accordance with directions from the Fiscal Intermediary.
 - Payment as a CAH provider type will not commence until on or after the date that all requirements have been met and an effective date for certification has been granted.
 - Medicare will not pay for services furnished under the CAH provider number to Medicare participants prior to the effective date of certification.
 - The CAH is not required to admit Medicare patients prior to the issuance of an effective date of Medicare participation.

- **In the case of a currently existing CAH that wishes to establish a DPU:**
 - The DPU(s) must be surveyed for compliance with the CAH DPU CoP at §485.647. All new CAH DPUs are subject to an initial survey and a one-year follow-up survey for compliance.
 - A current CAH wishing to add a DPU(s) may begin operating the DPU at the beginning of the CAH cost reporting period on or after October 1, 2004.
 - The State agency will conduct an initial survey of the DPU(s) as soon as is practicable.
 - Medicare payment to the CAH DPU(s) may only commence on the first day of a CAH's cost reporting period if all requirements are met by or on that date.
 - Medicare will not pay for services furnished to Medicare beneficiaries prior to the effective date of certification.
 - The CAH is not required to admit Medicare patients to any DPU prior to the issuance of an effective date of Medicare participation.

- o The CAH is limited on changing cost report periods by regulation. (42 CFR §413.24(f)(3))

New Conditions of Participation for DPUs have been added at 42 CFR §485.647 to implement the addition of DPUs to CAHs. (Final Rule for Changes to the Hospital PPS (IPPS-FR) published in the Federal Register/ Vol. 69, No. 154/ Wednesday, August 11, 2004/ Rules and Regulations, page 49272)

There are two CoPs for CAH DPUs at §485.647. One CoP applies to a Psychiatric DPU and one applies to a Rehabilitation DPU. Surveyors will select the appropriate CoP for the type of unit being surveyed.

§485.647 Condition of Participation: Psychiatric Distinct Part Unit

- o Compliance with Part 482, Subparts A-D Hospital Conditions of Participation
- o Compliance with §412.25 (a)(2) through (g) Excluded hospital units: common requirements
- o Compliance with §412.27 Excluded psychiatric units: additional requirements
- o Eligibility requirements

§485.647 Condition of Participation: Rehabilitation Distinct Part Unit

- o Compliance with Part 482, Subparts A-D Hospital Conditions of Participation
- o Compliance with §412.25 (a)(2) through (g) Excluded hospital units: common requirements
- o Compliance with §412.29 Excluded rehabilitation units: additional requirements
- o Compliance with §412.30 Exclusion of new rehabilitation units and expansion of units already excluded
- o Eligibility requirements

Determining Compliance: The survey process is the means to assess compliance with Federal health, safety and quality standards. Surveyors will directly observe the actual provision of care and services to patients, and the effects of that care, to assess whether the care provided meets the needs of individual patients. (42 CFR §488.26(c))

Each CMS Regional Office (RO) will assign the determination of compliance with the common requirements to the appropriate fiscal intermediary or State agency.

The surveyor will apply the appropriate CAH and/or CAH DPU CoPs according to the established CAH Survey Protocol as allowed at 42 CFR §488.2(d). This protocol and the CAH CoPs can be found in the Appendix W to the State Operations Manual on the web at www.cms.hhs.gov/manuals/107_som/som107_appendixtoc.asp.

The State survey agency will conduct a survey as soon as is practicable. If the survey determines the requirements were not met at the CoP level, the CAH will be denied payment for the applicable DPU for the full cost reporting period. (42 CFR §412.25(g)).

If the survey determines the requirements were not met at the standard level, the facility may participate in Medicare by submitting an acceptable Plan of Correction for achieving compliance within a reasonable period of time. If an acceptable Plan of Correction is received and approved

within 60 days, the CAH and its DPU(s) will be considered in compliance and payment of the DPU services will commence as of the effective date that is established by the CMS regional office in accordance with guidance in the State Operations Manual. If an acceptable Plan of Correction is not received and approved within 60 days, the CAH will be denied payment for the applicable DPU(s) of the CAH for the full cost reporting period (Ref: 42 CFR §412.25(g)).

Note on Accreditation Status

A CAH may choose to be accredited by either Joint Commission for the Accreditation of Healthcare Organizations (JCAHO) or the American Osteopathic Association (AOA) under either organization's CMS approved critical access hospital accreditation program and be deemed to meet CAH conditions of participation. This accreditation does not confer deemed status for the CAH Condition of Participation at 42 CFR §485.647 for distinct part units. A CAH may elect to become accredited under the JCAHO or AOA hospital accreditation program for the hospital services in its distinct part units, and may be deemed to meet the hospital Conditions of Participation for those units at 42 CFR §482.

In summary, a CAH that will provide services in a distinct part unit, psychiatric or rehabilitation, must be surveyed for compliance with the CMS hospital conditions of participation at 42 CFR §482. To demonstrate compliance with the hospital Conditions of Participation, the CAH may elect JCAHO or AOA hospital accreditation.

Interim Survey Procedures

Until a CAH ASPEN update (that includes the CAH DPU CoPs) and corresponding Interpretive Guidelines are developed, surveyors are to use the following methods to conduct surveys of CAH Psychiatric and Rehabilitation DPU.

- Use Appendix A (Hospital Survey Protocol and Interpretive Guidelines) to determine compliance with the Hospital CoPs at §482. Use the current version of ASPEN for hospitals to record survey findings regarding the DPU's compliance with the hospital CoP. A separate Form CMS-2567 will be produced.
- Use Form CMS-437 "Psychiatric Unit Criteria Worksheet" to conduct the survey of the CAH Psychiatric DPU Common Requirements (§412.25) and the CAH Excluded Psychiatric Unit Requirements (§412.27). Use the Psychiatric Hospital Interpretive Guidelines in Appendix AA to determine compliance with the Excluded Psychiatric Unit Requirements. Use the current version of CAH ASPEN to record survey findings. Surveyors must select a 9999 ASPEN Code and write in the regulation text.
- Use Form CMS-437A "Rehabilitation Unit Criteria Worksheet" to conduct the survey of the CAH Rehabilitation DPU Common Requirements (§412.25), the CAH Excluded Rehabilitation Unit Requirements (§412.29), and the DPU New/Expansion Requirements (§412.30). Use the current version of CAH ASPEN to record survey findings. Surveyors must select a 9999 ASPEN Code and write in the regulation text.
- For the Eligibility Requirements CoP, enter survey findings in the current version of CAH ASPEN. Select a 9999 ASPEN Code and write in the regulation text.
- The completed Form CMS-437 and/or Form CMS-437A is to be forwarded to the CAH Survey and Certification staff at the applicable CMS RO.

- Forms can be obtained from the web at www.cms.hhs.gov/forms.

Effective Date: An effective date for participation in the Medicare program will be established by the CMS regional office following compliance with all Medicare requirements. The effective date for a DPU for participation will be the date the provider meets all Federal requirements for that DPU but can be no sooner than either the last day of the on-site survey if there are no deficiencies, or the date of receipt of an acceptable Plan of Correction from the facility for any standard level deficiencies. (42 CFR §489.13)

In the case of a current CAH who is adding a DPU, the effective date must begin on the first day of the cost-reporting year of the CAH. If the effective date occurs later than the first day of the cost reporting year, the CAH will not be able to receive Medicare payment for the DPU until the beginning of the following cost reporting year, assuming all Federal requirements are met at that time.

Downsizing a current DPU to 10 beds: A PPS hospital that wishes to convert to CAH status makes the decision when it wishes to reduce the size of its PPS-excluded distinct part rehabilitation or psychiatric unit, in order to qualify as a CAH. The qualifying change to the maximum of 10 beds per unit can occur at any time prior to the initial CAH certification survey but would have to be in place on the date of the initial CAH survey. Downsizing is a Federal requirement and is managed as part of the application process for conversion of a hospital to a CAH provider.

Eligibility for DPUs: (42 CFR §485.647)

- A CAH may have one psychiatric DPU and/or one rehabilitation DPU of 10 beds each
- The DPU beds are NOT part of the maximum bed count of the CAH
- The CAH 96-hour average annual length of stay for acute care patients does NOT apply to the DPUs
- The CAH must only admit patients with a qualifying psychiatric diagnosis (42 CFR §412.27(a)) or rehabilitation diagnosis (42 CFR §412.29(b)) who are likely to benefit by being placed in the specialty units.

Provider Agreement: In most instances, there is no requirement to issue a new Medicare provider agreement because the conversion from a PPS hospital to a CAH provider type is considered to be a change in provider status but the provider is not a new Medicare provider. Exceptions are to be managed on a case-by-case basis according to established certification guidelines in the State Operations Manual.

Provider Billing Numbers: For each area shown below, a CAH will be issued a distinct Medicare provider number to be used for billing purposes. In all instances the number will consist of 6 digits, the first two digits of which identify the State. The CAH provider numbers are in the 1300 series. The last four digits of the CAH DPU provider number will begin with “M” for a psychiatric unit or “R” for a rehabilitation unit, followed by the last three digits of the parent CAH provider number.

CAH billing number	XX13XX (1300-1399)
Psychiatric DPU billing number	XXMXXX
Rehabilitation DPU billing number	XXRXXX

CAH Psychiatric DPU Payment: Psychiatric DPUs will be paid at cost with a TEFRA Cap until the Psychiatric PPS regulation is implemented.

CAH Rehabilitation DPU Payment: Inpatient Rehabilitation Facilities (IRFs) will be paid under the IRF PPS. The IRF PPS payment is contingent on the requirement that IRFs complete a patient assessment upon admission and discharge for Medicare patients. The patient assessment instrument (PAI) form OMB-0938-0842 and instructions can be found on the web at www.cms.hhs.gov/providers/irfpps/irfpai.asp.

All rehabilitation beds are considered "new" beds for the CAH provider, regardless of whether a current CAH adds a rehabilitation unit, or a PPS hospital with an existing rehabilitation unit (meeting IRF requirements) converts to CAH status and maintains its rehabilitation unit as part of the CAH. In either instance, the IRF unit beds will be considered as “new” rehabilitation beds. The facility is permitted to attest that the “new” unit meets and will continue to meet, the requirement at 42 CFR §412.30(b)(2) by using the attached attestation statement or submitting an attestation statement on their letterhead.

The attestation statement does not negate the requirement for an on-site survey to validate whether the facility is in compliance with the CAH CoP for a rehabilitation DPU.

State Licensure: All CAHs with a DPU must amend the State license for the facility, as appropriate, according to the licensure laws of the State. Note that this process must be complete prior to any effective date for participation as a CAH DPU.

If you have any questions that cannot be resolved by the appropriate State Agency, CMS regional office, or Fiscal Intermediary, please contact Marjorie Eddinger at (410) 786-0375 or via E-mail at MEddinger@cms.hhs.gov.

/s/
Thomas E. Hamilton

cc: Survey and Certification Regional Office Management (G-5)
Attachment

**Critical Access Hospital
Attestation Statement for Distinct Part Unit
for Rehabilitation Services**

**This attestation statement must be signed and dated by the Administrator/
Chief Executive Officer of the critical access hospital (CAH).**

**False, fictitious or fraudulent statement or representations can result in a
\$10,000 fine, imprisonment for 5 years, or both. (18 U.S.C. Section 1001)**

Based upon my personal knowledge and belief, I attest that the

(Name of CAH)

**currently meets and will continue to meet the requirements in 42 CFR
§412.30(b)(2) for the cost report period beginning _____. The
CAH intends for the rehabilitation distinct part unit to serve the inpatient
population in the requirements.**

**I understand that the Centers for Medicare and Medicaid Services (CMS), or
its representative, will conduct an on-site survey during the cost report period
to validate whether the facility is in compliance with the CAH Condition of
Participation for a rehabilitation distinct part unit.**

**If the on-site survey determines that the facility is not in compliance at the
Condition level, no payment will be made for the full cost-reporting year as
required by Section 1820(c)(2)(E)(iv) of the Social Security Act, 42 U.S.C.
1395i-4(c)(2)(E)(iv), and implementing regulations at 42 C.F.R. 412.25(g).**

Signature _____

Title _____ **Date** _____